

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

NORTHWEST LABORERS-EMPLOYERS
HEALTH & SECURITY TRUST, WESTERN
WASHINGTON LABORERS-EMPLOYERS
PENSION TRUST, NORTHWEST
LABORERS-EMPLOYERS TRAINING
TRUST, and WASHINGTON AND
NORTHERN IDAHO DISTRICT COUNCIL
OF LABORERS

Plaintiffs

v.

HURST CONSTRUCTION, LLC

Defendant

NO.

COMPLAINT FOR BREACH OF
COLLECTIVE BARGAINING AGREEMENT

COME NOW PLAINTIFFS, and for their cause of action, allege as follows:

1. Plaintiffs Northwest Laborers-Employers Health & Security Trust, Western Washington Laborers-Employers Pension Trust, and Northwest Laborers-Employers Training Trust (Trusts) are joint labor-management employee benefit trusts created pursuant to § 302(c)(5) of the Labor-Management Relations Act (the Act), 29 U.S.C. § 186(c)(5) and bring this action in accordance with §§ 502(d)(1), 502(a)(3) and 515 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. § 1001, et seq.

COMPLAINT FOR BREACH OF
COLLECTIVE BARGAINING AGREEMENT—1

STOLL LAW GROUP, PLLC
2033 Sixth Avenue — Suite 993
Seattle, WA 98121-2527
Telephone 206-623-2855
Fax 206-667-9805

1 2. Plaintiff Washington and Northern Idaho District Council of Laborers and its affiliated
2 Union locals (Union) is a labor organization that has its principal office located at 3909 164th
3 Street SW, Lynnwood, Washington.

4 3. Defendant Hurst Construction, LLC (Employer) is engaged in business within the
5 jurisdiction of this Court, and such business affects commerce within the meaning of § 301(a) of
6 the Act, 29 U.S.C. § 185(a).

7 4. Jurisdiction is conferred on this Court by § 301(a) of the Act, 29 U.S.C. § 185(a) and
8 §§ 502(a)(3) and 502(e)(2) of ERISA, 29 U.S.C. § 1132(a)(3) and § 1132(e)(2).

9 5. At all times material the Employer and the Union and its affiliated Local 348 were
10 parties to a collective bargaining agreement (Labor Agreement) and Trust Agreements, material
11 parts of which are set forth as Exhibits A and B, respectively, to this Complaint. Plaintiff Trusts
12 are third-party beneficiaries to the Labor Agreements.

13 6. The terms of the Trust Agreements, and ERISA, 29 U.S.C. §§ 1027 and 1059, grant the
14 Trusts the authority to review the payroll records of the Employer to verify the accuracy of the
15 Employer's reporting of bargaining unit hours worked by the Employer's employees, and to
16 verify the corresponding required fringe benefit payments to the Trusts.

17 7. Pursuant to the authority granted in the Trust Agreements, Plaintiffs requested that the
18 Employer submit to an examination of its payroll records to determine if the Employer has
19 correctly reported hours and paid fringe benefit contributions, dues, and other wage deductions
20 on behalf of its laborer-classification employees. The Employer did not adequately respond to
21 requests from Plaintiffs' Accountant (Anastasi, Moore & Martin, PLLC) for the payroll audit (see
22 August 30, 2016, letter from Accountant, attached as Exhibit C), or to four subsequent

1 letters from Plaintiffs' attorney.

2 8. The Employer has failed to abide by the terms and conditions set forth in the Trust
3 Agreements by refusing to produce the requested payroll records to the Trusts. Plaintiffs believe
4 the Employer has failed to abide by the terms and conditions set forth in the Labor Agreements
5 and the Trust Agreements and is delinquent in the payment of fringe benefit contributions, dues,
6 and other wage deductions in unknown amounts from May 2015 forward, which are due and
7 payable under the terms of the Labor Agreements and the Trust Agreements. The Employer's
8 failure to pay is also a violation of § 515 of ERISA, 29 U.S.C. § 1145.

9 9. The Employer's failure to produce its payroll records for inspection and to pay fringe
10 benefit contributions, dues, and other wage deductions, which continue after the filing of this
11 Complaint, violates the Labor Agreements and the Trust Agreements. The Employer's failure to
12 pay is also a violation of § 515 of ERISA, 29 U.S.C. § 1145.

13 10. The full extent of the Employer's delinquency in the payment of its required fringe
14 benefit contributions, dues and other wage deductions to the date of this Complaint is unknown
15 at this time and will be determined by an examination of the Employer's payroll records, which
16 examination is authorized by the Trust Agreements, ERISA, 29 U.S.C. §§ 1027 and 1059, and
17 controlling Federal court decisions.

18 11. The continuing failure of the Employer to produce its payroll records for review, to pay
19 contributions, dues, and other wage deductions, and to file monthly contribution report forms
20 makes the full extent of the Employer's delinquency uncertain and it will be determined at the
21 time of trial.

22 12. Under the terms of the Labor Agreements and Trust Agreements to which the

1 Employer is bound, the Employer is also obligated to pay all liquidated damages in the amount of
2 15 percent (15%) of the delinquent contributions owing and interest computed at the rate of 15
3 percent (15%) per annum on all contributions owing, as well as costs and expenses incurred,
4 including reasonable attorney fees.

5 13. If judgment is entered by default, a reasonable attorney's fee as of the date of this
6 Complaint is \$2,000.00.

7 WHEREFORE, Plaintiffs pray for the following relief:

- 8 (a) Judgment against Defendant Hurst Construction, LLC representing contributions,
9 dues, and other wage deductions, liquidated damages, and interest in an amount to
10 be determined at the time of trial;
- 11 (b) All costs and attorney fees incurred; and
- 12 (c) Such other relief as the Court deems just and equitable.

13 DATED November 18, 2016

14 s/ Mary L. Stoll

15 Mary L. Stoll, WSBA No. 16446
16 Attorney for Plaintiff Trusts and Union
17 STOLL LAW GROUP, PLLC
18 2033 Sixth Avenue — Suite 993
19 Seattle WA 98121-2527
20 Telephone 206-623-2855
21 Fax 206-667-9805
22 Email marys@mlstoll-law.com